UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,847	11/14/2005	Gene Liau	4-32422A	8612

75074 7590 01/08/2008

NOVARTIS INSTITUTES FOR BIOMEDICAL RESEARCH, INC.
400 TECHNOLOGY SQUARE
CAMBRIDGE, MA 02139

EXAMINER	
GUPTA, ANISH	

ART UNIT	PAPER NUMBER
1654	

MAIL DATE	DELIVERY MODE
01/08/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/537,847	LIAU ET AL.	
	Examiner	Art Unit	
	Anish Gupta	1654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-35 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-35 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group 1, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:1, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 2, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:2, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 3, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:3, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 4, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:4, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 5, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:5, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 6, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:6, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 7, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:7, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 8, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:8, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 9, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:9, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 10, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:10, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 11, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:11, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 12, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:12, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 13, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:13, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 14, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:14, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 15, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:15, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 16, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:16, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 17, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:17, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 18, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:18, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 19, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:19, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 20, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:20, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 21, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO: 21, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 22, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO: 22, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 23, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO: 23, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 24, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO: 24, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 25, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO: 25, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 26, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO: 26, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 27, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:27, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 28, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:28, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 29, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO: 29, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 30, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO: 30, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 31, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:31, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 32, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO: 32, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 33, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO: 33, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 34, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO: 34, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 35, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:35 3, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 36, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO:36, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 37, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO: 37, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 38, claim(s) 1-10, 31-35 drawn to peptide consisting of SEQ ID NO: 44, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 39, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding peptide consisting of SEQ ID NO:I, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 40, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:2, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 41, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding he peptide consisting of SEQ ID NO:3, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 42, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:4, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 43, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:5, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 44, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:6, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 45, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:7, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 46, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the drawn to peptide consisting of SEQ ID NO:8, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 47, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:9, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 48, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:10, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 49, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:11, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 50, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:12, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 51, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:13, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 52, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:14, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 53, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:15, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 54, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:16, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 55, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:17, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 56, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:18, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 57, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:19, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 58, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:20, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 59, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO: 21, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 60, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO: 22, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 61, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO: 23, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 62, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO: 24, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 63, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO: 25, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 64, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO: 26, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 65, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:27, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 66, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:28, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 67, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO: 29, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 68, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO: 30, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 69, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:31, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 70, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO: 32, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 71, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO: 33, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 72, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO: 34, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 73, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:35 3, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 74, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO:36, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 75, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO: 37, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

Group 76, claim(s) 11-30 drawn to nucleic acid and a vector containing the nucleic acid encoding the peptide consisting of SEQ ID NO: 44, amino acids 1-8, 2-9 or 2-8 of said sequence, conjugate, fusion protein, pharmaceutical composition.

The inventions listed as Groups 1-76 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The MPEP states that When the Markush grouping is for alternatives of chemical compounds, they shall be regarded as being of a similar nature where the following criteria are fulfilled:
(A) All alternatives have a common property or activity; and
(B) (1) A common structure is present, i.e., a significant structural element is shared by all of the alternatives; or
(B) (2) In cases where the common structure cannot be the unifying criteria, all alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains. See MPEP 1850.

Here all of the group do not share a common structure. The only amino acids that are shared between the amino acid sequences are the two cysteine residues on the N- and C- terminal ends. "Significant structural element is shared by all of the alternatives" refer to cases where the compounds share a common chemical structure which occupies a large portion of their structures, or in case the compounds have in common only a small portion of their structures, the commonly shared structure constitutes a structurally distinctive portion in view of existing prior art, and the common structure is essential to the common property or activity. The seven amino acids within the two cysteine residues do not share any common structure.

Further, all of the peptides do not belong to a recognized class of compounds. The words "recognized class of chemical compounds" mean that there is an expectation from the knowledge in the art that members of the class will behave in the same way in the context of the claimed invention. In other words, each member could be substituted one for the other, with the expectation that the same intended result would be achieved. Nothing in the art or the specification lead one to conclude that one peptide could be substituted for one another.

Furthermore, the MPEP states If, however, an independent claim does not avoid the prior art, then the question whether there is still an inventive link between all the claims dependent on that claim needs to be carefully considered. If there is no link remaining, an objection of lack of unity a posteriori (that is, arising only after assessment of the prior art) may be raised. (see MPEP 1850). Here, the prior art of US6200768 meet the limitation of a peptide of 2-8 amino acids for SEQ ID 44 since it disclose the sequence SLPTPPT. Thus, the claims lack unity.

This application contains claims directed to more than one species of the generic invention.

These species are deemed to lack unity of invention because they are not so linked as to form a

single general inventive concept under PCT Rule 13.1.

The species are as follows:

For any Group elected Applicants should elect either the sequence, a fragment of 1-8 amino acid, a fragment of 2-9 amino acids, a fragment of 2-8 amino acids, a conjugate with the sequence or a fusion protein with the sequence. If Applicants elect either the conjugate or the fusion, Applicants should also then elect a specifically disclosed conjugate or a specifically disclose fusion partner with the Sequence within the Group. By species, it meant a specific compound, thus Applicants should not elect a generic such as those outlined in claim 4. If Applicants only elect, say SEQ ID NO 1 in Group I, then only SEQ ID NO 1 will be searched. Once this search is exhausted, then the search will be extended to other species within the Group.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

The following claim(s) are generic: 1-35.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Each of the species within the Group have distinct structure and each would require their own search.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anish Gupta whose telephone number is (571)272-0965. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang, can normally be reached on (571) 272-0562. The fax phone number of this group is (571)-273-8300.

/8/08
ANISH GUPTA
PRIMARY EXAMINER